

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARK MONDRAGON, o/b/o,)	
D.M., a minor child)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:21-cv-00427-MV-KRS
)	
RIO RANCHO PUBLIC SCHOOLS)	
BOARD OF EDUCATION and)	
GEORGE ARCHULETA in his)	
Individual capacity)	
)	
Defendant.)	

**MOTION TO MODIFY SCHEDULING ORDER AND EXTEND CURRENT CASE
MANAGEMENT DEADLINES AND VACATE THE MEDIATION SET FOR
NOVEMBER 9, 2021**

Plaintiff by and through his attorneys of record, Gorence Law Firm, LLC (Robert Gorence) Bowles Law Firm (Jason Bowles) and The Law Office of Todd J. Bullion (Todd J. Bullion), respectfully moves the Court to modify the Scheduling Order in this case. As grounds, Plaintiff states as follows:

RELEVANT FACTS

1. On June 15, 2021, The Court entered an Order Adopting Joint Status Report and Provisional Discovery Plan and Setting Case Management Deadlines [Doc. 19]. The Scheduling Order required Plaintiff's reports from retained experts by September 1, 2021, reports from experts retained by Defendants by October 1, 2021 and the termination of discovery on November 26, 2021.

2. On June 15, 2021, The Court entered an Order Setting Settlement Conference [Doc. 20] for November 9, 2021.

3. There is currently no Trial Setting set in this matter.

4. Plaintiff asserts that the Scheduling Order should be modified because there has been a delay in conducting discovery in this case due to D.M.'s psychological treatment. Plaintiff has disclosed the identity of the treating psychologist in initial disclosures. At this point in time given where D.M. is in his treatment it would be premature for a retained expert to provide an opinion.

5. Furthermore, counsel are conferring in good faith to avoid conducting duplicative discovery in the other two cases filed which have related facts: 1:21-CV-00648 KWR/JFR and CV 1:21-CV-0751 KK/JHR. These discussions include conducting one deposition per witness for all three cases with extended time for questioning and setting all cases on a scheduling order with identical dates.

6. As a result of the aforementioned issues in paragraphs 4 and 5, Plaintiff seeks an extension of the expert witness disclosure deadline. The parties are currently discussing extending other case deadlines to account for the expert disclosure deadline being adjusted and Plaintiff seeks to extend additional case management deadlines.

7. Under Fed. R. Civ. P. 16(b)(4), a scheduling order may be modified only for good cause and with the judge's consent. *Summers v. Missouri Pac. R.R. Sys.*, 132 F.3d 599, 604 (10th Cir. 1997). Nonetheless, while the pretrial order defines a lawsuit's boundaries in the trial court and on appeal, 'total inflexibility is undesirable.'" *Hull v. Chevron U.S.A., Inc.*, 812 F.2d 584, 588 (10th Cir.1987) (citing Fed R. Civ. P. 16 advisory committee's note).

8. In light of the aforementioned facts, the Plaintiff believes there is good cause within the meaning of Fed. R. Civ. P. 16(b)(4) to modify the current Scheduling Order [Doc. 19] and vacate the Order Setting Settlement Conference [Doc. 20].

9. Counsel for Defendants have been contacted, their position is still being sought but was not obtained before filing this motion.

WHEREFORE, in consideration of all the facts discussed above, the Plaintiff requests that the Court enter an Order that provides for the following relief:

Respectfully submitted,

GORENCE LAW FIRM, LLC

/s/ Robert Gorence

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---and---

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---and---

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CERTIFICATE OF SERVICE

I CERTIFY that on this 1st day of September 2021, I filed the foregoing through this Court's CM/ECF System, and caused the counsel of record for each Defendant to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

/s/ Todd J. Bullion
Todd J. Bullion